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RHEHNSC/NSC WASHINGTON DC
RUEAIIA/CIA WASHINGTON DC
RUEKDIA/DIA WASHDC
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C O N F I D E N T I A L SECTION 01 OF 02 ABUJA 000073

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STATE FOR INR/AA, AF/W
DOE FOR CAROLYN GAY

E.O. 12958: DECL: 01/10/2018
TAGS: [PGOV](#) [PINR](#) [KDEM](#) [KJUS](#) [NI](#) [ELECTIONS](#)
SUBJECT: NIGERIA: STATE TRIBUNAL RULES AGAINST PDP, CITES
MALPRACTICES, INTIMIDATION

REF: A. 07 ABUJA 793
[1](#)B. 07 ABUJA 786
[1](#)C. 07 ABUJA 766
[1](#)D. 07 ABUJA 2303
[1](#)E. 07 ABUJA 2232
[1](#)F. 07 ABUJA 2231
[1](#)G. 07 ABUJA 1750

Classified By: A/DCM Walter N.S. Pflaumer for Reasons 1.4 (b & d).

[1](#)1. (U) On December 11, 2007 the Enugu State Election Tribunal nullified the elections of two People's Democratic Party (PDP) senators, Ayogu Eze and Patrick Asadu, on grounds of irregularities, intimidation of voters, unlawful cancellation of opponents' votes, falsification of results, and other electoral malpractices. The Tribunal also ruled the Independent National Electoral Commission (INEC) employed local members of the PDP to illicitly preside over elections in several local government areas (and, consequently, falsify ballot papers and result sheets). As well, it ruled INEC (scheming with Eze and the PDP) illegally allocated votes to non-existent political parties. The judgment ordered INEC to conduct a fresh election within 90 days and fined both Eze and Asadu USD 85. Eze and Asadu are appealing the decision.

[1](#)2. (U) The Benue State Election Tribunal overturned the election of Speaker of the Benue State House Assembly Terseer Tumba (PDP) on December 10, 2007. The Tribunal ruled Tumba

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(and INEC) failed to prove elections took place in the requisite number of constituencies in the state. As well, the court declared INEC submitted insufficient and/or falsified voters' registers and announced Tumba victorious well before ballots had even been collated. (Note: Tumba most recently served as Director-General of current Benue Governor Gabriel Suswam's (PDP) campaign organization. End Note.) Tumba has filed an appeal.

[1](#)3. (SBU) COMMENT: The Enugu and Benue elections represent the first cases in which any of the 36 State Election Tribunals ruled gross electoral malfeasance and intimidation of voters (among other serious charges) perpetrated by PDP members and INEC appreciably invalidated election results, confirming, to a degree, Post's elections assessment (Refs A, B & C). END COMMENT.

¶4. (U) NOTE: The vast majority of the over 1,200 petitions contesting the April 2007 state, gubernatorial, and presidential elections filed at election tribunals across the country have been jettisoned on procedural technicalities or for "lack of merit" (meaning, inter alia, the petitioner did not demonstrate sufficient or lawful grounds upon which to contest an election). Three gubernatorial elections have been overturned at the State Election Tribunals in Kebbi, Kogi, and Adamawa; two gubernatorial elections (Anambra and Rivers) were nullified by the Supreme Court. In the Kebbi, Kogi, Adamawa, and Rivers polls, the courts ruled against the declared PDP candidate citing the unlawful exclusion by INEC of otherwise eligible candidates. In the case of Anambra, the Supreme Court cancelled the election results and re-instated Peter Obi (of the All Progressive Grand Alliance) as governor. As well, in the Rivers gubernatorial race, the Supreme Court found Celestine Omehia (PDP) was declared the victor despite the fact his name never appeared on the ballot; Rotimi Amaechi (PDP) was installed as governor in November 2007. The Kebbi, Kogi, and Adamawa tribunal verdicts are currently under appeal and will be heard at a specially-constituted Appeals Tribunal beginning mid-January. END NOTE.

¶5. (C//NF) COMMENT: While noteworthy, the nullification of a handful of senatorial or gubernatorial races across the country remains relatively insignificant, despite the fact that the tribunals have ruled against the PDP in the overwhelming majority of these races. At the same time, however, the invalidation of the Anambra gubernatorial polls, which effectively removed Obasanjo-loyalist Andy Uba from power, is a clear sign of an impartial Supreme Court. A more accurate, significant test of the state election tribunals' impartiality will be the case against Senate President and Obasanjo-loyalist David Mark (PDP), which was the only

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senatorial race in which results were announced by INEC's Abuja headquarters and not at the state INEC office in Benue (Refs D, E, F & G). The case against Mark continues to be heard at the Benue State Election Tribunal, with a decision expected as early as February.

¶6. (C//NF) COMMENT CONT'D: While Post assessed the April elections as deeply flawed, it remains to be seen whether the actual merits of an aggrieved petitioner's case will prevail over political considerations. The Senate President's case, while an important litmus test for the tribunals' impartiality, is also a prominent example of politics as usual in Nigeria. Former Benue governor and current senator, George Akume (PDP), is allegedly financing the legal challenge against Mark by his opponent Usman Abubakar (of the All Nigeria People's Party) in retaliation for Mark's (and not Akume's) ascent to the Senate Presidency. With Mark in charge of the Senate, and third in line to the Nigerian Presidency, Obasanjo hopes to maintain relevance (and immunity from prosecution) in national politics. To be sure, Mark's ouster by the tribunal would serve to attenuate Obasanjo's influence. Post will report septel an analysis of the election tribunals (including the on-going Presidential Election Tribunal). END COMMENT. PIASCIK